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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,371	01/25/2007	Yoshifumi Kato	5000-5306	9713

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EXAMINER	
WON, BUMSUK	

ART UNIT	PAPER NUMBER
2889	

NOTIFICATION DATE	DELIVERY MODE
11/27/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptopatentcommunication@lockelord.com

Office Action Summary	Application No.	Applicant(s)	
	10/574,371	KATO ET AL.	
	Examiner	Art Unit	
	BUMSUK WON	2889	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 July 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,4 and 7-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,4 and 7-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *9/23/2009*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

The amendment filed on 7/6/2009 has been entered.

Response to Arguments

Applicant's arguments with respect to the amended claims 1, 4, and 7-16 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

Claim 1 is objected to because of the following informalities: "A light emitting portion" should be "a light emitting portion". Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4, 7, 10, 11, and 14-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Kawaguchi (US 2006/0214157 and US 7,521,861).

Regarding claim 1, Kawaguchi discloses an EL element (figures 3, 4 and 12) comprising: a light emitting portion (the area other than 23) and a non-light emitting portion (23), wherein the light emitting portion and the non-light emitting portion are provided for bringing the luminance distribution of the element into a state (paragraph

8), wherein the light emitting portion and the non-light emitting portion are provided so that the luminance distribution is uniform as a whole (paragraph 8), wherein a volume resistivity of the first electrode is higher than that of the second electrode, the first electrode being in formed in a flat form, and the non-light emitting portion is provided so that the area occupied by the non-light emitting portion per unit area is greater at a position physically closer to the position of a terminal position of the first electrode (figure 3 and paragraph 38).

Regarding claim 4, Kawaguchi discloses an EL element (figures 3, 4 and 12) comprising: a light emitting portion (the area other than 23) and a non-light emitting portion (23), wherein the light emitting portion and the non-light emitting portion are provided for bringing the luminance distribution of the element into a state (paragraph 8), wherein the light emitting portion and the non-light emitting portion are provided so that the luminance distribution is uniform as a whole (paragraph 8), wherein a volume resistivity of the first electrode is higher than that of the second electrode (figure 3 and paragraph 38) formed in a flat form, and the light emitting portion is provided so that the area occupied by the light emitting portion per unit area is greater at a position physically further to the position of the terminal portion of the first electrode (figure 12).

Regarding claim 7, Kawaguchi discloses the electroluminescence element is an organic electroluminescence element in which at least an organic layer which emits light by application of a voltage is held between the pair of electrodes (paragraph 2).

Regarding claim 10, Kawaguchi discloses the non-light emitting portion is constructed by modifying the organic layer to be incapable of emitting light (paragraph 134).

Regarding claim 11, Kawaguchi discloses the electroluminescence element is an organic electroluminescence element in which an organic layer which emits light at least by application of a voltage is held between the pair of electrodes (paragraph 2), and the light emitting portion is constructed by providing an electron injection layer (19) between a cathode of the pair of electrodes and the organic layer (figure 2).

Regarding claim 14, Kawaguchi discloses the electroluminescence element is an inorganic electroluminescence element (paragraph 139).

Regarding claim 15, Kawaguchi discloses the non-light emitting portion is constructed by providing an insulating portion on at least a part of the area between the pair of electrodes (paragraph 134).

Regarding claim 16, Kawaguchi discloses the electroluminescence element is formed on a substrate (figure 10B, 12) and constructed as a bottom emission type (paragraph 40), and light reflection layers (paragraph 47) are provided at positions between the substrate and a transparent electrode corresponding to the insulating portions (paragraph 134).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 8, 9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawaguchi in view of Yutaka (JP 2000-082588) which is cited in the IDS.

Regarding claim 8, Kawaguchi does not specifically disclose the non-light emitting portion is constructed by providing a part made of material having a work function larger than that of a material of a cathode of the pair of electrodes between the cathode and the organic layer.

Yutaka discloses a light emitting element using lower work function material in order to decrease current thereby reducing emitting light (paragraph 9), for the purpose of effectively controlling light output of the device.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have a light emitting element using lower work function material in order to decrease current thereby reducing emitting light as disclosed by Yutaka in the device disclosed by Kawaguchi, for the purpose of effectively controlling light output of the device.

Regarding claim 9, Kawaguchi does not specifically disclose the non-light emitting portion is constructed by providing a part made of material having a work function smaller than that of a material of an anode of the pair of electrodes between the anode and the organic layer.

Yutaka discloses a light emitting element using lower work function material in order to decrease current thereby reducing emitting light (paragraph 9), for the purpose of effectively controlling light output of the device.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have a light emitting element using lower work function material in order to decrease current thereby reducing emitting light as disclosed by Yutaka in the device disclosed by Kawaguchi, for the purpose of effectively controlling light output of the device.

Regarding claim 12, Kawaguchi discloses the electroluminescence element is an organic electroluminescence element in which an organic layer which emits light at least by application of a voltage is held between the pair of electrodes (paragraph 2).

Kawaguchi does not specifically disclose the light emitting portion is constructed by modifying a predetermined area of an anode of the pair of electrodes to have a work function larger than the work function of other areas of the anode.

Yutaka discloses a light emitting element using lower work function material in order to decrease current thereby reducing emitting light (paragraph 9), for the purpose of effectively controlling light output of the device.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have a light emitting element using lower work function material in order to decrease current thereby reducing emitting light as disclosed by Yutaka in the device disclosed by Kawaguchi, for the purpose of effectively controlling light output of the device.

Claims 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawaguchi in view of Yoshikazu (JP 11-273869) which is cited in the IDS.

Regarding claim 13, Kawaguchi does not specifically disclose the organic layer is provided on only the area which is the light emitting portion.

Yoshikazu discloses a light emitting device (figure 8f) having the organic layer (85) is provided on only the area which is the light emitting portion, for the purpose of effectively controlling output of the light.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have an organic layer is provided on only the area which is the light emitting portion as disclosed by Yoshikazu in the device disclosed by Kawaguchi, for the purpose of effectively controlling output of the light.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422

F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 4, 7, 11, and 14 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 11, and 12 of U.S. Patent No. 7,521,861. Although the conflicting claims are not identical, they are not patentably distinct from each other.

Instant Application	US 7,521,861	Comments
1	1, 11, 12	Claims 1, 11 and 12 of US 7,521,861 recites all the claimed limitations.
4	1, 11, 12	Claims 1, 11 and 12 of US 7,521,861 recites all the claimed limitations.
7, 11	1, 11, 12	Regarding claims 7 and 11, claims 1, 11 and 12 of US 7,521,861 does not specifically recite the EL element is an organic EL element in which at least an organic layer which emits light by application of a voltage is held between the pair of electrodes. However, utilizing organic layer in the art is widely known for the purpose of enhancing efficiency of the device. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use organic layer in the device recited in the claims 1, 11, 12 of

		US 7,521,861, for the purpose of enhancing efficiency of the device.
14	1, 11, 12	Regarding claim 14, claims 1, 11 and 12 of US 7,521,861 does not specifically recite the EL element is an inorganic EL element. However, utilizing inorganic layer in the art is widely known for the purpose of reducing manufacturing cost. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use inorganic EL element in the device recited in the claims 1, 11, 12 of US 7,521,861, for the purpose of reducing manufacturing cost

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BUMSUK WON whose telephone number is (571)272-2713. The examiner can normally be reached on Monday through Friday, 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Minh Toan Ton can be reached on 571-272-2303. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bumsuk Won/
Examiner, Art Unit 2889